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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/243,101	02/02/1999	JOSHUA B. SUSSER	08993/007001	2006
24209	7590	10/06/2005	EXAMINER	
GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940			VU, TUAN A	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/243,101

Applicant(s)

SUSSER ET AL.

Examiner

Tuan A. Vu

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 59-150.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

**ANIL KHATRI
PRIMARY EXAMINER**

Continuation of 3. NOTE: First, objections to claims 109 and 137 are maintained. Second, concerning a improper interpretation of the recited 'reference ...to a constant pool' by examiner, it is noted that a 'reference to an instruction to a constant pool' amounts to reference/information being stored in a class file constant pool, such information representing instruction or references to a constant pool (see col. 9, li. 1-19) because card file constant pool 47 is itself a constant pool having content derived from a aggregate constant pool. Hence the card class file converter transforming instructions found in such card file 47 reads on transforming one reference ... to a constant pool (card file 47) to ... inlined ... operand or opcode. Reference to an instruction to a constant pool is the instruction to be operated upon by the converter, such instruction being a reference given to the converting process and it refers to an instruction in the card file constant pool: reference to an instruction to a constant pool. The argument about not respecting MPEP regarding allowed interpretation of the claim is not persuasive in view of the above. Third, in regard to the remark that Wilkinson's iload <n> has nothing to do with eliminating the reference by means of inlined data is not persuasive, because by converting a compacted instruction into its single components, the process of transformation of an instruction referred to a constant pool signifies that data from such reference is being replaced by inlined operand or opcode, such source instruction being decomposed reading on a composite instruction. And as long as this reads on the claim, the rejection does not have to justify why Wilkinson does not support eliminating of a reference. Fourth, in regard to Examiner's remarks on 'would not go through the pain', and JVM teachings and Wilkinson maintaining of a index thus teaching away from the details of claim 59, this is not persuasive in the least. Attacking a remark is not leading to help advancing prosecution of the case by detracting away from the claimed subject matter; besides, a composite instruction is interpreted as being disclosed from above. Further, Wilkinson does teach replacing a more compacted intructions with simpler and explicit operand/opcode, does teach keeping these operand/opcode once derived from a complex instruction as 2 components indexed by one address line, thus inlined instruction data. The remark about forming a compacted instruction by Wilkinson is to show rationale behind Wilkinson's simplifying runtime linking of otherwise limited portable device execution resources; and one skill in the art reading the claim as recited would very well see the benefits of Wilkinson as to why such compacted form of ILoad is enabling decomposition as shown in Fig. 7, for example - besides the claim does not sufficiently define the word 'composite' and a very stricter interpretation thereof is still optional; hence, there is no misuse of the MPEP. The claim as recited only yields a certain objective construction of the features, and demanding that such construction --as perceived from the examiner-- to match Applicant's conviction of only one way about how the claimed features mean would be inappropriate because subjective view of one's invention is not to be equated with the broad interpretation of one skill in the art. The arguments are mostly not helping the application to be in condition for allowance; and the amended claims will be not be entered (because some improprieties still exist) in order to alleviate complications for an Appeal.